

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

LELAND BOOTHE

v.

NATHANIEL QUARTERMAN

§
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§
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§

C.A. NO. C-06-221

ORDER TO STRIKE


This is a habeas corpus action filed by a state prisoner pursuant to 28 U.S.C. § 2254. This Court has received an *amicus curiae* brief from Wayne Ernest Barker, a Texas prisoner incarcerated with petitioner at the Skyview Psychiatric Unit. (D.E. 106). Mr. Barker has not requested leave to file such a brief. He is neither a party to this action, nor a licensed attorney. Indeed, Mr. Barker has admitted that he considers himself mentally incompetent. (D.E. 65, at 1).

The extent to which a district court permits *amicus* briefing is solely a matter of discretion. See United States v. Olis, No. H-07-3295, 2008 WL 620520, at *7 (S.D. Tex. Mar. 3, 2008) (unpublished) (citing Waste Management of Pa., Inc. v. City of York, 162 F.R.D. 34, 36 (M.D. Pa. 1995)); see also DeJulio v. Georgia, 127 F. Supp.2d 1274, 1284 (N.D. Ga. 2001) (“The decision whether to allow a non-party to participate as an *amicus curiae* is solely within the broad discretion of the Court.”). Upon review, Mr. Barker’s brief is neither timely nor useful. See Yip v. Pagano, 606 F. Supp. 1566, 1568 (D.N.J. 1985). Furthermore, Mr. Barker is more accurately described as a friend of the petitioner rather than as a friend of the Court.¹ Id.

¹ Indeed, it is questionable how much of a friend he is to petitioner. Testimony has established that his interest is to provide legal “advice” in exchange for commissary goods. (D.E. 97, at 160-61).

Accordingly, Mr. Barker's *amicus curiae* brief, (D.E. 106), is hereby ordered stricken from the record.

ORDERED this 14th day of March 2008.



BRIAN L. OWSLEY
UNITED STATES MAGISTRATE JUDGE